

## Message Text

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DEA HQS WASHDC PRIORITY  
INFO AMEMBASSY LA PAZ  
AMEMBASSY QUITO  
AMEMBASSY BOGOTA

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TAGS: SNAR, PE  
SUBJECT: PROMULGATION AND PUBLICATION OF DRUG LAW

REF: LIMA 1635

SUMMARY: THE LONG-AWAITED PERUVIAN DRUG LAW FINALLY WAS PUBLISHED MARCH 2. IT CREATES A MULTISECTORAL COMMITTEE FOR DURG CONTROL AND AN EXECUTIVE OFFICE FOR DRUG CONTROL, THE LATTER WITHIN THE MINISTRY OF THE INTERIOR. MAJOR RESPONSIBILITY FOR REPRESSION OF TRAFFIC IS GIVEN TO INVESTIGATIVE POLICE, STATE CONTROL OVER THE COMMERCIALIZATION OF COCA LEAVES IS ESTABLISHED, GRADUAL REDUCTION OF COCA LEAF PRODUCTION AND CROP SUBSTITUTION IS CONTEMPLATED, AND STIFF PENALTIES ARE ESTABLISHED FOR PRODUCTION AND TRAFFICKING. END SUMMARY.

1. HIGHLIGHTS OF THE NDW DRUG LAW, WHICH WAS PROMULGATED AND PUBLICIZED MORE THAN A WEEK AFTER IT WAS APPROVED BY THE COUNCIL OF MINISTERS ON FEB 21 ARE OUTLINED BELOW. SPANISH TEXT OF LAW  
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FOLLOWS BY AIRGRAM.

2. THE LAW'S INTRODUCTORY PARAGRAPHS AND FIRST CHAPTER (DISPOSICIONES GENERALES) IDENTIFY THE PRODUCTION, CONSUMPTION AND COMMERCIALIZATION OF DRUGS AS WELL AS THE CHEWING OF COCA LEAVES AS SERIOUS SOCIAL PROBLEMS, AND DEFINE AS THE LAW'S OBJECTIVE THE REPRESSION OF DRUG TRAFFIC AND THE ESTABLISHMENT

OF QUOTE A REGIME FOR THE GRADUAL REDUCTION OF CULTIVATION OF COCA PLANTS, LIMITING THEM TO STRICTLY SCIENTIFIC OR INDUSTRIAL ENDS, IN HARMONY WITH A CHANGE IN CONSUMPTION HABITS. UNQUOTE.

3. CHAPTER ON THE TREATMENT OF DRUG ADDICTS IS UNCONTROVERSIAL. MINORS (UNDER 18 YEARS) MUST BE HANDED OVER BY POLICE TO PARENTS OR GUARDIANS WITHIN 24 HOURS, BUT REPEAT OFFENDERS, NO MATTER WHAT AGE, ARE OBLIGED TO UNDERGO REHABILITATION TREATMENT. NONRESIDENT FOREIGN ADDICTS NOT CHARGED WITH A CRIME WILL BE EXPELLED.

4. CHAPTER IV ON THE PRODUCTION, COMMERCIALIZATION AND CONTROL OF COCA AND OTHER DRUGS IS OF SPECIAL INTEREST AND WILL PROBABLY BE THE MOST DIFFICULT TO ENFORCE. THE LAW:

--STRICTLY PROHIBITS PLANTINGS OF COCA IN NEW AREAS AS WELL AS REPLANTINGS IN ESTABLISHED PLOTS;

--ESTABLISHES STATE CONTROL OVER ALL VARIETIES OF COCA, POPPIES AND CANNABIS AND RESERVED FOR THE STATE (REPRESENTED BY ENACO THE GOVERNMENT COCA ENTERPRISE)

THE CULTIVATION OF COCA, ONCE PRIVATE AND COOPERATIVE PRODUCTION HAS BEEN ERADICATED OR SUBSTITUTED;

--PROVIDES THAT COCA-PRODUCING LANDS NOT OCCUPIED AND MANAGED BY THEIR OWNERS BE IMMEDIATELY EXPROPRIATED AS PART OF THE AGRARIAN REFORM;

--RESERVES EXCLUSIVELY FOR ENACO THE INTERNAL AND EXTERNAL COMMERCIALIZATION OF COCA LEAVES; AND

--ESTABLISHES STRICTER CONTROLS OVER THE IMPORT AND PRODUCTION OF UNCLASSIFIED

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DURGS AND THEIR PRESCRIPTION.

INDIVIDUAL OWNERS OF 10 HECTARES OR MORE OF LAND LEGALLY DEDICATED EXCLUSIVELY OR PARTIALLY TO COCA MUST PROCEED, WITHIN 2 YEARS OF DATE OF NEW LAW, TO SUBSTITUTE OR ERADICATE COCA PLANTS OR RISK LOSING THEIR LAND. OWNERS OF LEGAL 5-10 HECTARE PLOTS HAVE 3 YEARS TO SUBSTITUTE, ERADICATE, OR LOSE THEIR PLOTS TO LANDLESS PEASANTS. THE TIMETABLE FOR SUBSTITUTION/ERADICATION ON LEGAL PLOTS SMALLER THAN 5 HECTARES (THE OVERWHELMING MAJORITY) IS TO BE DETERMINED BY THE MINISTRY OF AGRICULTURE AND FOOD. THE GUARDIA CIVIL IS CHARGED WITH ENFORCEMENT OF THESE SUBSTITUTION/ERADICATION PROVISIONS OF THE LAW. COCA PRODUCERS COOPERATING WITH THE GOP IN ERADICATING COCA PLANTINGS WILL HAVE PRIORITY IN STATE-SPONSORED COLONIZATION SCHEMES.

5. PRISON SENTENCES AND OTHER SANCTIONS ESTABLISHED IN CHAPTER V AREA:

--NO LESS THAN 15 YEARS IMPRISONMENT FOR THOSE WHO PROMOTE, ORGANIZE, FINANCE OR DIRECT ILLICIT INTERNATIONAL DRUG TRADE;

--NO LESS THAN 15 YEARS FOR INTERNAL DRUG TRAFFICKERS, FOR PUBLIC FUNCTIONARIES WHO PROTECT THEM OR ALLOW THEM TO FLEE, OR FOR PERSONS WHOSE PROPERTY, CAPITAL, MACHINERY, TRANSPORT ARE USED IN TRAFFICKING;

--NO LESS THAN 10 YEARS FOR THOSE WHO INSTIGATE DRUG USE BY

MINORS, ADMINISTER DRUGS BY VIOLENCE OR DECEPTION; USE MINORS IN DRUG TRAFFICKING OR SELL DRUGS IN SCHOOLS;  
--FROM 2 TO 10 YEARS FOR ANYONE WHO KNOWINGLY PRODUCES AND/OR SELLS FOR DRUG PRODUCTION COCA, POPPIES OR CANNABIS, GIVES AWAY SAMPLES OF DURGS, ILLEGALLY DISTRIBUTES SMALL QUANTITIES OF DRUGS DIRECTLY TO INDIVIDUAL CONSUMERS, OR POSSESSES DRUGS IN QUANTITIES LARGER THAN THAT NECESSARY FOR IMMEDIATE INDIVIDUAL CONSUMPTION;  
--FROM 2 TO 5 YEARS FOR OWNERS OR OPERATORS OF FARMS OR COOPERATIVES WHO CULTIVATE COCA WITHOUT BEING REGISTERED OR CULTIVATE GREATER HECTARAGE THAN LEGALLY REGISTERED OR AUTHORIZED.  
ALL OF THE PRISON TERMS DESCRIBED ABOVE OR ACCOMPANIED BY FINES, PROHIBITION ON EXERCISING A PROFESSION, AND--IN THE CASE OF FOREIGNERS--PERMANENT EXPULSION FROM PERU AFTER PRISON TERMS ARE SERVED. THE LAW EXPRESSLY PROHIBITS PROVISIONAL LIBERTY,  
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CONDITIONAL LIBERATION, COMMUTATION OF SENTENCES, CONDITIONAL IMPRISONMENT OR PARDONS. ACCOMPLICES ARE NOT ELIGIBLE FOR REDUCTION OF SENTENCES BY 2/3 AS ESTABLISHED BY THE PENAL CODE. THOSE PREVIOUSLY SENTENCED ON DRUG CHARGES OUTSIDE OF PERU WILL BE CONSIDERED REPEAT OFFENDERS.

6. SPECIAL PROCEDURAL NORMS OUTLINED IN CHAPTER VIII, WHICH GIVE THE INVESTIATIVE POLICE (PIP) PRINCIPAL AUTHORITY BUT PROVIDES THAT THE CIVIL GUARD HAS AUTHORITY WHERE PIP NOT REPRESENTED. OVER DURG-RELATED CRIMES, NORMS INCLUDE:  
--LIMITATION OF PREVENTIVE DETENTION OF DRUG TRAFFICKERS AND ACCOMPLICES TO 15 DAYS;  
--TRAVEL RESTRICTIONS ON KNOWN OR SUSPECTED DRUG TRAFFICKERS;  
--THE SUSPENSION OF HABEAS CORUPUS IN DRUG-RELATED CRIMES AND INVESTIGATIONS;  
--PRECAUTIONARY EMBARGO OF REAL AND PERSONAL PROPERTY OF SUSPECTED TRAFFICKERS, EVEN BEFORE SENTENCING; AND  
--THE RIGHT OF THE ATTORNEY GENERAL TO APPEAL ANY DRUG-RELATED RELEASE ORDER ISSUED BY A LOWER COURT, BEFORE THE SUBJECT OF THE PRELIMINARY INVESTIATION IS RELEASED.

7. THE MULTISECTORAL COMMITTEE FOR DRUG CONTROL ESTABLISHED BY THE LAW IS COMPRISED OF THE INTERIOR MINSTER (PRESIDING), THE MINISTER OF AGRICULTURE/FOOD, THE MINISTER OF INDUSTRY/COMMERCE/TOURISM/INTEGRATION; THE MINISTER OF EDUCATION, THE MINISTER OF HEALTH, AND A JUSTICE OF THE SUPREME COURT. ITS POWERS INCLUDE FORUMULATING AND IMPLEMENTATION OF GENERAL DRUG POLICIES, FORMULATION OF COMPLEMENTARY REGULATIONS OF LAW, AND DETERMINATION OF AREAS WHERE COCA CULTIVATION IS TO BE PROGRESSIVELY REDUCED. THE EXECUTIVE OFFICE FOR DRUG CONTROL, WHICH IS TO FUNCTION DIRECTLY AND EXCLUSIVELY UNDER THE INTERIOR MINSTER, IS IN CHARGE OF CARRYING OUT NATIONAL DRUG POLICIES AND ENFORCING LAWS AND REGULATIONS,  
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COORDINATING TECHNICAL AND ECONOMIC RESOURCES PROVIDED BY OTHER GOVERNMENTS OR ENTITIES, AND PROMOTING INTERNATIONAL COOPERATION AGAINST DRUG TRAFFICKING AND ABUSE. IT IS TO BE COMPOSED OF ONE FUNCTIONARY FROM EACH OF THE ENTITIES REPRESENTED IN THE MULTISECTORAL COMMITTEE, AS WELL AS ONE OF THE ATTORNEYS GENERAL AND A JUDGE OF THE LIMA SUPERIOR COURT, AND EXPRESSLY EXCLUDES REPRESENTATIVES OF POLICE FORCES.

8. FINALLY, "TRANSITORY DISPOSITIONS" STIPULATE THAT WITHIN 90 DAYS ENACO IS TO BE TRANSFERRED FROM THE MINISTRY OF INDUSTRY/COMMERCE TO THE MINISTRY OF AGRICULTURE/FOOD. ALL COCA PRODUCERS ARE REQUIRED, WITHIN 90 DAYS TO REGISTER WITH ENACO. UNTIL ENACO HAS THE RESOURCES TO ENFORCE FULL COMPLIANCE WITH ALL ASPECTS OF THE LAW, IT IS CHARGED WITH CONTROLLING EXISTING PRODUCTION, DRYING AND TRANSPORT, AND CAN OBLIGE PRODUCERS TO SELL THEIR ENTIRE PRODUCTION. THOSE AUTHORIZED COCA PRODUCERS WHO CAN DEMONSTRATE THE "AGRO-ECONOMIC IMPOSSIBILITY" OF COMPLYING WITH THE CROP SUBSTITUTION WITHIN THE TIME LIMITS SET BY THE LAW ARE ELIGIBLE FOR ONE EXTENSION EQUAL TO THE SET LIMIT. THE TIME LIMITS FOR ILLEGAL GROWERS TO COMPLY WITH ERADICATION/ SUBSTITUTION PROVISIONS IN PARA 4 IS REDUCED TO ONE YEAR (10 OR MORE HECTARES AND 2 YEARS (5 TO 10 HECTARES). THE LAST TRANSITORY ARTICLE ESTABLISHES THAT THE ENFORCEMENT OF THE LAW WILL NOT OCCASION GREATER FISCAL DEMANDS ON THE GOP THAN THOSE ALREADY ESTABLISHED IN THE 1978 NATIONAL BUDGET.

9. COMMENTS AND REACTIONS FOLLOW SEPTEL.  
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